

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for the detailed Official Action provided, for the acknowledgment of Applicants' Claim for Priority and receipt of the certified copy of the priority document, and for the acknowledgment of Applicants' Information Disclosure Statement by return of the Form PTO-1449.

Upon entry of the above amendment, newly presented claims 33-36 will have been added. Accordingly, claims 1-36 are currently pending. Claims 1, 2, 7-13, and 20-26 have been withdrawn from consideration by the Examiner as being directed to a nonelected invention. Applicants respectfully request reconsideration of the outstanding rejections and allowance of claims 3-6, 14-19, and 27-36 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has rejected claims 3-6, 14, 15, 27, and 28 under 35 U.S.C. § 102(e) as being anticipated by SAADAT et al. (U.S. 2004/0138525).

However, Applicants note that SAADAT et al. fails to show each and every element recited in the claims. In particular, independent claim 3 sets forth an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and "a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, said plurality of circumferential apertures being provided to extend through said flexible tubular body from a side face of said flexible tubular body". Independent claim 4 sets forth an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; "a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, said plurality of

circumferential apertures being provided to extend through said flexible tubular body from a side face of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device. Independent claim 5 sets forth an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said flexible tubular body”. Independent claim 6 sets forth an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device.

Applicants’ claimed invention includes an embodiment shown in Figures 7-14. The internal treatment apparatus 400 includes an apparatus body 10a having a center opening 220 and a circumferential opening portion 130. The internal treatment system 500 includes an apparatus body 10a having a center opening 220 and a circumferential opening portion 130, a body manipulating device 260, an endoscope manipulating device 170, and surgical instrument manipulating devices 181 and 182. See particularly pages 26-28 of the specification.

The apparatus body 10a is a flexible tubular member and includes a distal end portion 111 having a circular cross section with a reduced outer diameter toward its distal end, and a

deflectable portion 112 provided at a rear end face 111a of the distal end portion 111. The apparatus body 10a is introduced into a patient from the distal end portion 111. The apparatus body 10a is provided with a circular center opening 220. The circular center opening passes through the apparatus body 10a from the center of the distal end face 111b toward the proximal end face. The apparatus body 10a further includes a circumferential opening portion 130. See figures 7 and 8. The circumferential opening portion 130 passes through the apparatus body 10a from a side face 112b thereof to a proximal end face 10c of the apparatus body 10a. See figure 14. Thus, the circumferential opening portion 130 is open on the side surface of the distal end of the internal treatment apparatus, and is open on the end surface of the proximal end of the internal treatment apparatus. The circumferential opening portion 130 includes circular apertures 131, 132. The circular apertures 131, 132 may be positioned at equi-angular intervals about a center 220a of the center opening 220. Surgical instruments 242 and 241 for performing a surgical procedure at a site of a lesion are passed through the apertures 131, 132 to project outwardly from outlets 131a and 132a, respectively. The distance between the outlet 131a and the distal end face 111b is equal to the distance between the outlet 132a and the distal end face 111b. The outlets 131a and 132a are preferably equal in inner diameter, thus allowing the surgical instruments 241, 242 to be replaced according to the contents and steps of surgical procedures. Further, it is also advantageous for the inner diameters of the outlets 131a and 132a to be greater than the outer diameter of the surgical instruments 241 and 242, so that the surgical instruments 241 and 242 may be used at various, desired angles. Thus, the apertures 131, 132 are open on the side surface of the distal end of the internal treatment apparatus.

The SAADAT et al. reference discloses a tool deployment system including a flexible tubular body 10, a center opening 24 at the distal end of the tubular body 10, and a plurality of

circumferential apertures 26 in the tubular body 10. As shown in figure 2, the tubular body 10 includes a distal end 14 and a proximal end 12. Further, the center opening 24 is provided at the distal end of the body 10. The circumferential apertures 26 are provided at the proximal end of the tubular body 10. A proximal end 32 of the tool arm 30 projects from the circumferential apertures 26 located at the proximal end 12 of the tubular body 10. See particularly figure 25A. Figure 25A depicts the tool arms 30 projecting from the circumferential apertures 26, *located at the proximal end 12 of the tubular body*. Figures 25A and 25B show the proximal end 12 of the tubular body 10. A distal end 34 of the tool arm 30 projects from the distal end face at the distal end 14 of the tubular body 10. Thus, the tool arm 30 extends through the aperture 26 at the proximal end 12 of the tubular body 10, through the tubular body 10, and through the aperture on the distal end face at the distal end 14 of the tubular body 10. See particularly figure 25A.

Thus, since the SAADAT et al. reference discloses a tubular body with a tool arm extending through a distal end face aperture and extending through a side face of the proximal end of the tubular body, the SAADAT et al. reference does not disclose a tubular body with the tool arm extending through a side face of the distal end of the tubular body and extending through the end surface of the proximal end of the tubular body. The SAADAT et al. device does not include a tubular body that includes a circumferential opening portion that is open on the side surface of the distal end of the internal treatment apparatus and that is open to the end surface of the proximal end of the internal treatment apparatus. Accordingly, the SAADAT et al. reference fails to disclose or teach any circumferential apertures that are supported by a circumferential opening as claimed.

Therefore, the SAADAT et al. reference does not show an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the

flexible tubular body and “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, said plurality of circumferential apertures being provided to extend through said flexible tubular body from a side face of said flexible tubular body”, as set forth in independent claim 3. Further, the SAADAT et al. reference fails to show an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, said plurality of circumferential apertures being provided to extend through said flexible tubular body from a side face of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device, as set forth in independent claim 4. The SAADAT et al. reference fails to show an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said flexible tubular body”, as set forth in independent claim 5. Further, the SAADAT et al. reference fails to show an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said

flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device, as set forth in independent claim 6.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 3-6 under 35 U.S.C. § 102(e) over SAADAT et al. is improper and withdrawal thereof is respectfully requested.

Applicants submit that dependent claims 14, 15, 27, and 28, which are at least patentable due to their dependency from claims 3 and 4 for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features.

The Examiner has rejected claims 16-19 and 29-32 under 35 U.S.C. § 103(a) as being unpatentable over SAADAT et al. in view of LYS et al. (U.S. 2003/0100837).

Applicants note that SAADAT et al. fails to teach or suggest the subject matter claimed in independent claims 3 and 4, as described above. Further, LYS et al. fails to cure these deficiencies. Moreover, there is nothing in the cited prior art that would lead one of ordinary skill in the art to make the modification suggested by the Examiner in the rejection of claims 16-19 and 29-32 under 35 U.S.C. § 103(a) over SAADAT et al. in view of LYS et al. Thus, the only reason to combine the teachings of SAADAT et al. and LYS et al. results from a review of Applicants’ disclosure and the application of impermissible hindsight. Even if the teachings of SAADAT et al. and LYS et al. were combined, as suggested by the Examiner, the claimed combination would not result. Accordingly, the rejection of claims 16-19 and 29-32 under 35 U.S.C. § 103(a) over SAADAT et al. in view of LYS et al. is improper for all the above reasons and withdrawal thereof is respectfully requested.

Applicants submits that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in newly submitted claims 33-36. New dependent claims 33-36 recite additional subject matter which is not taught or suggested by the prior art and are also allowable.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 3-6, 14-19, and 27-36.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper and that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 3-6, 14-19, and 27-36. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

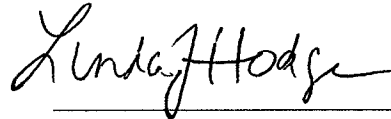
Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

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